

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JORDAN CHARLES
DEMONTINEY,

Defendant.

CR 09-91-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Jordan Charles Demontiney (Demontiney) has been accused of violating the conditions of his supervised release by committing another crime, and by consuming alcohol. Demontiney has admitted that he consumed alcohol. Demontiney was unable to admit or deny whether he had committed another crime. The government made no attempt to prove that Demontiney committed another crime. Demontiney's supervised release should be revoked. Demontiney should receive a custodial sentence of time served, with 12 months of supervised release to follow.

II. Status

Demontiney pleaded guilty to Second Degree Murder on September 17,

2009. (Doc. 10). The Court sentenced Demontiney to 108 months of custody, followed by 5 years of supervised release. (Doc. 18). Demontiney's term of supervised release began on September 6, 2018. (Doc. 87 at 2).

Petition

The United States Probation Office filed a Petition on October 31, 2018, requesting that the Court revoke Demontiney's supervised release. (Doc. 87). The Petition alleged that Demontiney had violated the conditions of his supervised release by committing another crime, and by consuming alcohol. United States District Brian M. Morris issued a warrant for Demontiney's arrest on October 31, 2018. (Doc. 88).

Initial appearance

Demontiney appeared before the undersigned for his initial appearance on February 5, 2019. (Doc. 90). Demontiney was represented by counsel. Demontiney stated that he had read the Petition and that he understood the allegations. Demontiney waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Amended Petition

The United States Probation Office filed an Amended Petition on February 6, 2019. (Doc. 93).

Revocation hearing

The Court conducted a revocation hearing on February 5, 2019, and on February 12, 2019. Demontiney admitted that he had violated the conditions of his supervised release by consuming alcohol. The violation is serious and warrants revocation of Demontiney's supervised release.

Demontiney's violation is Grade C violation. Demontiney's criminal history category is III. Demontiney's underlying offense is a Class A felony. Demontiney could be incarcerated for up to 60 months. He could be ordered to remain on supervised release for up to 34 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 5 to 11 months.

III. Analysis

Demontiney's supervised release should be revoked. Demontiney should receive a custodial sentence of time served, with 12 months of supervised release to follow. The supervised release conditions imposed previously should be continued. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Demontiney that the above sentence would be recommended to Judge Morris. The Court also informed Demontiney of his right

to object to these Findings and Recommendations within 14 days of their issuance.

The Court explained to Demontiney that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Demontiney stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before a United States district court judge.

The Court **FINDS:**

That Jordan Charles Demontiney violated the conditions of his supervised release by consuming alcohol.

The Court **RECOMMENDS:**

That the District Court revoke Demontiney's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of time served, with 12 months of supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations.

Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 13th day of February, 2019.



John Johnston
United States Magistrate Judge